IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE JURISIDICTION

CONTEMPT PETITION NO.26 OF 2004
IN
WRIT PETITION NO. 5299 OF 2002

Shri.Sanjay Rameshlal Gugale
and Ors. ..Petitioners

Vs.

Pune Municipal Corporation
Shivajinagar, Pune ..Respondents

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Ms.Kiran Bagalia for Smt.Lalita Panchakshri
for Petitioners
Mr.C.R.Dalvi with V.G.Mujumdar for Respondents

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CORAM : B.H.MARLAPALLE,J.

DATE : FEBRUARY 21,2005

P.C.:

1. Heard Ms.Kiran Bhagalia along with Mrs.Lalita Panchakshari, the learned counsel appearing for the petitioners and Mr.C.R.Dalvi with Mr.Muzumdar learned counsel appearing for the respondents.

2. It has been contended that the Pune Municipal Corporation and its Officers who were impleaded as respondents, have wilfully disobeyed the order passed by this Court on 17.10.2002 in W.P.No. 5299 of 2002. Two issues were dealt with by the said order viz.

the alleged encroachment by the Corporation on the subject open plot and (2) the petitioners' application for de-reservation/releasing the plot from the requirements for garden.

3. On the first issue, the petitioners' application has been decided though belatedly and after the Contempt Petition was moved. Ms.Bagalia stated that no reasons have been given while rejecting the application. However, the resolution passed by the Corporation is clear and therefore, it cannot be accepted that the application has been rejected without giving any reasons. On the second issue regarding the encroachment, it appears from the record that the petitioners' plot is abutting the public road of 60 mts. width and there is another vertical road proposed through the plot of the petitioners and the proposed road of 30 mts. width is likely to divide the petitioners' plot in two portions. The petitioners, therefore, appear to have requested the Corporation to realign this road of 30 mts. width from one side so that their plot is not divided in two small portions. This request is required to be processed by the Corporation as per the Rules and take appropriate steps for minor amendment in the development plan.

4. As at present, there is no case made out, prima

facie, for wilful disobedience of the order passed by this Court. Hence, this petition fails.

5. The same is hereby rejected summarily and this order would not come in the way of the petitioners to take appropriate alternate remedy that may be available in law.

[B.H.MARLAPALLE,J.]